

## **Furnishing Transcripts**

### **4-01 TRANSCRIPT FEES**

#### **A. Amount of Transcript Fees**

##### **1. Circuit Court**

The circuit court reporters or recorders are entitled to demand and receive per page for a transcript ordered by any person the sum of \$1.75 per original page and 30 cents per page for each copy, unless a lower rate is agreed upon. For a transcript ordered by the circuit judge, reporters or recorders are entitled to receive from the county the same compensation. The supreme court, by administrative order or court rule, may authorize the payment to circuit court reporters or recorders the sum of \$3.00 per original page and 50 cents per page for each copy for transcripts ordered and timely filed as part of a program of differentiated case management for appeals of civil cases in which the circuit court either grants or denies summary disposition. If a transcript ordered under a program of differentiated case management is not timely filed, the circuit court reporter or recorder is not entitled to receive the increased rate for that transcript.

Only if the transcript is desired for the purpose of moving for a new trial or preparing a record for appeal shall the amount of reporters' or recorders' fees paid for the transcript be recovered as a part of the taxable costs of the prevailing party in the motion, in the court of appeals or the supreme court.

[MCL 600.2543]

##### **2. District Court**

A district court recorder or reporter shall be entitled to receive for a transcript ordered by any person the same fees as provided by law for circuit court reporters or recorders. For a transcript ordered by the district judge or a circuit judge, recorders or reporters shall be entitled to receive from the district control unit the same compensation. The amount of a recorder's or reporter's fees paid shall be recoverable as a part of the taxable costs by the prevailing party in a motion or on appeal. [MCL 600.8631]

##### **3. Probate Court**

The probate court reporter or recorder may collect for transcripts of testimony requested by any interested party or ordered by the probate judge, other than depositions, the same fees as provided by MCL 600.2543 for circuit court reporters or recorders unless a lower rate is agreed upon. The transcript fees so collected shall be paid to the probate court reporter or recorder by the ordering party, or by the county for a transcript ordered by a probate judge, which fees shall accrue to the reporter or recorder as additional compensation.

Fees shall not be charged or collected for transcripts provided under Act No. 243 of the Public Acts of 1919, being section 35.41 of the Michigan Compiled Laws.

[MCL 600.878]

## **B. Depositions**

Reasonable and actual fees paid for depositions of witnesses filed in any clerk's office and for the certified copies of documents or papers recorded or filed in any public office shall be allowed in the taxation of costs only if, at the trial or when damages were assessed, the depositions were read in evidence, except for impeachment purposes, or the documents or papers were necessarily used.

[MCL 600.2549]

## **C. Limitations on Fees**

### **1. Excessive Amount Prohibited**

A judge of any court, sheriff, bailiff, district court magistrate, or other officer, or other person except attorneys at law to whom any fees or compensation shall be allowed by law for any service, shall not take or receive any other or greater fee or reward for his service, but such as is or shall be allowed by the laws of the state.

[MCL 600.2513]

### **2. Services Actually Performed**

No fee or compensation allowed by law, shall be demanded or received by any officer or person for any service, unless such service was actually rendered by him; but this section shall not prevent any officer from demanding any fee herein allowed for any service of which he is entitled by law to require the payment previous to rendering such service.

[MCL 600.2516]

### **3. Consequences of Violation**

A violation of either MCL 600.2513 or 600.2516 shall be deemed a misdemeanor; and the person guilty thereof shall be liable to the party aggrieved for treble the damages sustained by him, and such violation shall be a cause for forfeiture of office.

[MCL 600.2519]

#### **D. Freelance Reporters/Recorders**

Absent judicial resolution, the Board has determined that reporters or recorders are subject to the same statutes as court employees when acting as an official court reporter or recorder. They may charge no more than the statutory per page rate. (see also Section 2-03, page 2-03-09)

[Court Reporting and Recording Board of Review; March, 1990]

Michigan courts may negotiate contractual agreements with freelance reporters or recorders to cover expenses not contemplated by the per page statutory fee.

[Court Reporting and Recording Board of Review; June, 1990]

Duties and other statutory provisions are located in Section 8-05 of this Manual, pages 8-05-01 through 8-05-03

## **4-02 ORDERING/FILING TRANSCRIPTS**

### **A. Transcript to Party on Request**

#### **1. Regulation by Court Rule**

##### **a. In General**

The court reporter or recorder shall furnish without delay, in legible English, a transcript of the records taken by him or her (or any part thereof) to any party on request. The reporter or recorder is entitled to receive the compensation prescribed in the statute on fees from the person who makes the request. [MCR 8.108(E)]

##### **b. Record on Appeal**

The appellant is responsible for securing the filing of the transcript as provided in this rule. Except in cases governed by MCR 6.425(F)(2), or as otherwise provided by Court of Appeals order or the remainder of this subrule, the appellant shall order from the court reporter or recorder the full transcript of testimony and other proceedings in the trial court or tribunal. Once an appeal is filed in the Court of Appeals, a party must serve a copy of any request for transcript preparation on opposing counsel and file a copy with the Court of Appeals. [MCR 7.210(B)(1)(a)]

#### **2. Regulation by Statute**

##### **a. Circuit and Probate Court**

If a transcript of a trial or other proceeding in a court of record other than the district court is ordered other than for filing in the case file, the court reporter or recorder also shall prepare and shall file a certified copy of the transcript in the case file at the expense of the person ordering the transcript unless a copy has been filed with the court or unless the chief judge of the court orders otherwise in an order filed in the case file. [MCL 600.2137(3)]

##### **b. District Court**

If a transcript of a trial or other proceeding is ordered other than for filing in the case file, the district court recorder or reporter also shall prepare and shall file a certified copy of the transcript in the case file at the expense of the person ordering the transcript unless a copy has been filed with the court, unless the circuit court has a copy pursuant to subsection (1), or unless the chief judge of a district court district orders otherwise in an order filed in the case file. [MCL 600.8635(2)]

## **B. Transcript on Order of the Trial Court**

### **1. In General**

On order of the trial court, the court reporter or recorder shall make and file in the clerk's office a transcript of his or her records, in legible English, of any civil or criminal case (or any part thereof) without expense to either party; the transcript is a part of the records in the case. [MCR 8.108(F)(1)]

Except when otherwise provided by contract, the court reporter or recorder shall receive from the appropriate governmental unit the compensation specified in the statute on fees for a transcript ordered by a court. [MCR 8.108(F)(2)]

An original of the verbatim record of other matters as may be required by supreme court rule shall be reduced to writing by the district court recorder or reporter and upon completion of the verbatim record shall be filed with the clerk of the district court or as directed by the district court. [MCL 600.8635]

### **2. Preliminary Examination**

An original and copy of the verbatim record of all preliminary examinations in which the defendant is bound over to the circuit court for further proceedings shall be reduced to writing by the district court recorder or reporter when ordered by the circuit court and upon completion of the verbatim record shall be filed with the clerk of the circuit court, or as directed by the circuit court. . . . The county shall pay the costs of transcribing preliminary examinations in accordance with the schedule provided in MCL 600.8631. [MCL 600.8635(1)]

Unless the defendant pleads guilty at the arraignment or the parties otherwise agree, the court must order the court reporter to transcribe and file the record of the preliminary examination. The order must also provide for the payment of the reporter's fees. [MCR 6.113(D)]

### **3. At Sentencing**

The trial court, in its order appointing counsel for an indigent criminal defendant, must direct the court reporter to prepare and file, within the time limits specified in MCR 7.210, 1) the trial or plea proceeding transcript, 2) the sentencing transcript, and 3) such transcripts of other proceedings, not previously transcribed, that the court directs or the parties request.

The court, in an order appointing counsel for an indigent criminal defendant, must provide for payment of the reporter's or recorder's fees.

#### **4. Post Conviction Proceedings**

##### **a. Appeals of Right.**

An indigent defendant may file a written request with the sentencing court for specified court documents or transcripts, indicating that they are required to pursue an appeal of right. The court must order the clerk to provide the defendant with copies of documents without cost to the defendant, and, unless the transcript has already been ordered as provided in MCR 6.425(F)(2), must order the preparation of the transcript.

##### **b. Appeals by Leave.**

An indigent defendant who may file an application for leave to appeal may obtain copies of transcripts and other documents as provided in this subrule.

- 1) The defendant must make a written request to the sentencing court for specified documents or transcripts indicating that they are required to prepare an application for leave to appeal.
- 2) If the requested materials have been filed with the court and not provided previously to the defendant, the court clerk must provide a copy to the defendant. If the requested materials have been provided previously to the defendant, on defendant's showing of good cause to the court, the clerk must provide the defendant with another copy.
- 3) If the request includes the transcript of a proceeding that has not been transcribed, the court must order the materials transcribed and filed with court. After the transcript has been prepared, the court clerk must provide a copy to the defendant.

##### **c. Other Postconviction Proceedings.**

An indigent defendant who is not eligible to file an appeal of right or an application for leave to appeal may obtain records and documents as provided in this subrule.

- 1) The defendant must make a written request to the sentencing court for specific court documents or transcripts indicating that the materials are required to pursue postconviction remedies in a state or federal court and are not otherwise available to the defendant.
- 2) If the documents or transcripts have been filed with the court, the clerk must provide the defendant with copies of such materials without cost to the defendant.

- 3) The court may order the transcription of additional proceedings if it finds that there is good cause for doing so. After such a transcript has been prepared, the clerk must provide a copy to the defendant.
- (4) Nothing in this rule precludes the court from ordering materials to be supplied to the defendant in a proceeding under subchapter 6.500.

[MCR 6.433]

## **4-03 ACCESS TO COURT FILES**

### **A. Filing Papers**

The clerk shall endorse on every paper the date on which it is filed. The clerk shall keep a file folder for each action, bearing the civil action number assigned to it, in which the clerk shall keep all pleadings, process, orders, and judgments filed in the action. The clerk may not permit any record or paper on file in the clerk's office to be taken from it without the order of the court. [MCR 8.105(B)]

### **B. Access to Papers**

1. Unless access to a file is restricted by statute, court rule, or a suppression order, any person may inspect pleadings and other papers in the clerk's office and may obtain copies as provided in MCR 8.119(E)(2) and (3).
2. If a person wishes to obtain copies of papers in a file, the clerk shall provide copies upon receipt of the cost of production. If the clerk prefers, he or she may permit the requesting person to make copies at his or her own expense under the direct supervision of the clerk.
3. A court, by administrative order adopted pursuant to MCR 8.112(B), may make reasonable regulations necessary to protect its public records and prevent excessive and unreasonable interference with the discharge of its functions.

[MCR 8.119, Michigan Trial Court Case File Management Standards, Component 19, pages 26 through 29]